

**RAS 3881**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

**DOCKETED 02/07/02**

**SERVED 02/07/02**

Before Administrative Judges:

Thomas S. Moore, Chairman  
Dr. Peter S. Lam  
Dr. Thomas S. Elleman

In the Matter of

TENNESSEE VALLEY AUTHORITY

(Sequoyah Nuclear Plant, Units 1 & 2;  
Watts Bar Nuclear Plant, Unit 1)

Docket Nos.50-327-OLA, 50-328-OLA,  
50-390-OLA

ASLBP No. 02-796-01-OLA

February 7, 2002

MEMORANDUM AND ORDER

On December 17, 2001, the Commission published a notice of opportunity for hearing on the license amendment request of the Tennessee Valley Authority (TVA) to change the technical specifications (TS) for its Sequoyah Nuclear Plant, Units 1 and 2, located in Soddy-Daisy, Tennessee. See 66 Fed. Reg. 65,000 (Dec. 17, 2001). On that same date, the Commission also published a second similar hearing notice on TVA's request to change the TS for its Watts Bar Nuclear Plant, Unit 1, located in Rhea County, Tennessee. See 66 Fed. Reg. 65,005 (Dec. 17, 2001). The proposed amendments for all three TVA reactors seek to change various technical specifications to allow incore irradiation services for the U.S. Department of Energy (DOE) by inserting several thousand tritium-producing burnable absorber rods into the reactor cores to produce tritium for use by DOE for national defense purposes.

On January 14, 2002, Jeannine Honicker of La Grange, Georgia filed a petition to intervene in the Watts Bar and Sequoyah amendment proceedings. Similarly, on January 16, 2002, the Blue Ridge Environmental Defense League (BREDL) filed a petition to intervene in both proceedings and We the People (WTP) filed a petition to intervene in each proceeding.

Thereafter, on January 28, 2002, this Licensing Board was established to preside over the proceedings and the proceedings were consolidated. In response to the intervention petitions, TVA, on January 28 and 29, 2002, and the NRC Staff, on January 31 and February 4, 2002, filed answers to the petitions.

Pursuant to its authority under 10 C.F.R. § 2.718, the Licensing Board sets forth the following directives regarding the conduct of this proceeding:

1. Notice of Appearance

Any attorney or representative for TVA, the NRC Staff, and each Petitioner, who has not already done so, shall file a notice of appearance in conformity with the requirements of 10 C.F.R. § 2.713(b) by February 14, 2002. Each attorney or representative also should include in the appearance notice a facsimile number (and, if applicable, any special instructions regarding use of that number) and an Internet e-mail address, if available.

2. Amendments of Intervention Petitions

Pursuant to 10 C.F.R. § 2.714(a)(3), Petitioners Jeannine Honicker, BREDL, and WTP each have the right to amend their intervention petition any time up to 15 days prior to the holding of the first prehearing conference. Because the Licensing Board does not intend to hold any prehearing conference before it has ruled upon the question of whether each of the Petitioners has standing to intervene, each Petitioner may amend its intervention petition to address any shortcomings, or other matters, in its initial petition by filing an amended petition no later than February 21, 2002. The Licensing Board will not entertain any proffered amended petitions after that date.

3. Supplements to Intervention Petitions

Pursuant to 10 C.F.R. § 2.714(b)(1), each Petitioner shall file a supplement to its intervention petition containing all its proffered contentions. Each Petitioner's supplement shall be filed by March 7, 2002. Each Petitioner shall separately identify and number each of its proffered contentions and ensure that each contention complies fully with all requirements of 10 C.F.R. § 2.714(b)(2). In this regard, each contention also shall set forth as the first paragraph

of the contention the “specific statement of the issue of law or fact to be raised or controverted” as called for in the first sentence of section 2.714(b)(2). The second and subsequent paragraphs of each contention shall contain the basis for the contention as called for in section 2.715(b)(2)(i), (ii), and (iii).

#### 4. TVA and Staff Answers

In the event any Petitioners file amended intervention petitions, TVA and the Staff shall file answers to the amended petitions by February 28, 2002. The answers of TVA and the Staff to any contentions filed by the Petitioners in supplements to their intervention petitions shall be filed by April 4, 2002.

#### 5. Service of all Filings

All pleadings and other submissions filed before the Licensing Board shall be served on each member of the Licensing Board and each of the other participants. Without exception, all filings by all participants shall be accompanied by a certificate of service setting forth the name, electronic or facsimile transmission address and/or other address of each person served, the manner of service (i.e., e-mail, fax, first-class mail, etc.) of each person served, the date of service, and the certification of service of the person executing the service.

All participants shall serve their pleadings and other submissions on Members of the Licensing Board and the other participants by e-mail or fax and, that same date, send conforming copies to each of them by first-class mail.

#### 6. Filing with the Secretary of the Commission

Regardless of the method of service used by a participant for any pleading or other submission (i.e., first class mail, priority mail, express mail, other overnight delivery, hand delivery, facsimile transmission or electronic transmission), the Commission’s Rules of Practice, 10 C.F.R. §§ 2.701 and 2.708 require that an original and two conforming copies also be filed with the Office of the Secretary, Attention: Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Although the participant serving a pleading or other submission is free to use the same or a comparable method of service used

in serving the Licensing Board to comply with these sections, first class mail is sufficient for all filings of the original and two conforming copies with the Office of the Secretary in this proceeding.

7. Service on the Licensing Board Members

Members of the Licensing Board should be served in accordance with the following instructions:

a. Regular Mail. To complete service via U.S. Postal Service first-class mail on Judge Moore and Judge Lam, conforming copies should be sent to them at the following address:

Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555

To complete service via U.S. Postal Service first-class mail on Judge Elleman, conforming copies should be sent to him at the following address:

704 Davidson Street  
Raleigh, NC 27609

For regular mail service, the NRC Staff may use the NRC internal mail system (Mail Stop T-3 F23) in lieu of first-class mail to serve Judge Moore and Judge Lam.

b. Overnight or Hand Delivery. To complete service via overnight (e.g., express mail) or hand delivery on Judge Moore and Judge Lam, a participant should send conforming copies to them at the following address:

Atomic Safety and Licensing Board Panel  
Third Floor, Two White Flint North  
11545 Rockville Pike  
Rockville, MD 20852

It should be noted that use of the regular mail address of Judge Moore and Judge Lam for overnight (such as Federal Express) or hand delivery may delay receipt of the filing.

To complete service via overnight (e.g. express mail) or hand delivery on Judge Elleman, a participant should deliver conforming copies to him at his regular mail address set forth in paragraph 7a.

c. Facsimile Transmission. To complete service by facsimile transmission on Judge Moore and Judge Lam, a participant should (i) send copies addressed to the attention of each of them at 301-415-5599 (verification 301-415-7399); and (ii) that same date send conforming copies to each of them by regular mail. To complete service by facsimile transmission on Judge Elleman, a participant should (i) send copies addressed to his attention at (919) 782-7975; and (ii) that same date send conforming copies to him by regular mail.

d. E-Mail. To complete service by e-mail transmission, a participant should (i) send the pleading or other submission (which should include the certificate of service) as a file attached to an e-mail message directed to each Member of the Licensing Board (Internet IDs: tsm2@nrc.gov; psl@nrc.gov; elleman@eos.ncsu.edu; NRC Agency Upgrade of Technology for Office Systems (Autos) Wide Area Network (WAN) System IDs for Judge Moore and Judge Lam: TSM2; PSL); (ii) send any attachments or exhibits to a pleading that cannot be transmitted by e-mail to the Members of the Licensing Board by separate facsimile transmission or other means that will ensure receipt by the due date; and (iii) send paper conforming copies that same date to each of them by first class mail.

e. Timely Service.

To be timely, any pleading or other submission served on the Members of the Licensing Board by hand delivery, facsimile transmission, or e-mail must be received by them no later than 11:59 p.m. Eastern Standard Time or, as applicable, Eastern Daylight Time, on the date due.

8. Motions, Responses to Motions, and Reply Pleadings

a. Motions for Extensions of Time.

A motion for an extension of time filed with the Licensing Board shall be submitted in writing so that it is in the hands of the Licensing Board at least three (3) business days before the due date for the pleading or other submission for which the extension is sought. A motion for extension of time shall (a) indicate whether the request is opposed or supported by the other

parties; and (b) demonstrate “unavoidable and extreme circumstances” that warrant granting the extension. See Statement of Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 NRC 18, 21 (1998).

b. Reply Pleadings.

The Commission’s Rules of Practice, 10 C.F.R. Part 2, Subpart G, do not provide for any right of reply to a responsive pleading. A motion for leave to file a reply shall be filed so that it is in the hands of the Licensing Board at least three (3) business days of the filing of the response for which leave to reply is sought. Such motion shall (a) indicate whether the request is opposed or supported by the other parties; and (b) demonstrate good cause for permitting the reply to be filed.

c. Responses to Motions.

Any opposition response to a motion for an extension of time, a motion for leave to file a reply, a motion to extend a page limit or similar motions shall be filed so that it is in the hands of the Licensing Board at least three (3) business days after the filing of the motion.

It is so ORDERED.

For the Atomic Safety and Licensing Board\*

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Thomas S. Moore, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
February 7, 2002

\*Copies of this Order have been transmitted this date by e-mail or fax to counsel or other representative for each of the parties.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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TENNESSEE VALLEY AUTHORITY ) Docket Nos. 50-327-OLA, 50-328-OLA,  
 ) and 50-390-OLA  
(Sequoyah Nuclear Plant, Units 1 & 2 and )  
Watts Bar Nuclear Plant, Unit 1) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB MEMORANDUM AND ORDER DATED FEBRUARY 7, 2002 have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Thomas S. Moore, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Peter S. Lam  
Atomic Safety and Licensing Board Panel  
Mail Stop - T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Administrative Judge  
Thomas S. Elleman  
Atomic Safety and Licensing Board Panel  
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Washington, DC 20555-0001

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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Ann Pickel Harris, Director  
We The People, Inc., Tennessee  
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Rockwood, TN 37854

Docket Nos. 50-327-OLA, 50-328-OLA, and  
50-390-OLA  
LB MEMORANDUM AND ORDER DATED  
FEBRUARY 7, 2002

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Washington, DC 20005

[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 7<sup>th</sup> day of February 2002